

E-Filed 7/20/09

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MICHAEL R. BERUBE,

Plaintiff,

V.

HSBC BANK USA,

Defendant.

Case Number C 09-127 JF (PVT)

ORDER¹ GRANTING MOTION TO DISMISS

[re: document no. 29]

On June 16, 2009, Defendant filed motions to dismiss and to strike. Both motions were noticed for hearing on July 24, 2009. Pursuant to Civil Local Rule 7-3(a), “[a]ny opposition to a motion must be served and filed not less than 21 days before the hearing date.” Subsection (b) provides further that “[i]f the party against whom the motion is directed does not oppose the motion, that party *must* file with the Court a Statement of Nonopposition within the time for filing and serving any opposition.” Civil Local Rule 7-3(b) (emphasis added). Plaintiff thus was required to file opposition or a statement of non-opposition by July 3, 2009. Plaintiff has not filed opposition to the motion, timely or otherwise, and has not filed a statement of non-opposition. Plaintiff therefore is deemed to have consented to the granting of the motion. In

¹ This disposition is not designated for publication in the official reports.

1 addition, the Court has reviewed the allegations of the complaint and the arguments presented in
2 the motion to dismiss, and finds the arguments persuasive. Accordingly, the action will be
3 dismissed with prejudice. Judgment shall be entered for Defendant and the clerk shall close the
4 file.

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6 **IT IS SO ORDERED.**

7 DATED: 7/20/09



JEREMY FOBEL
United States District Judge

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